



Photo by Minnesota Geological Survey

SILICA SAND RULEMAKING RECLAMATION

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Silica Sand Advisory Panel – August 28, 2014

Where we left off.....

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- In the *May* meeting:
 - DNR has authority to write the rules
 - LGUs will be implementing the rules
 - Rules will not regulate end use
 - Interested in including blasting standards
- I handed copies of WI NR 135 and indicated that I would lean heavily on this existing reclamation language as well as MN reclamation language
- You created a table of interests

Since the May meeting.....

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- At the July meeting, DNR and EQB communicated their intention of meeting with LGUs.
- Meetings went very well.
- Feedback includes -
 - The rules will be applied to large industrial operators, small operators, and potentially, at the local level aggregate producers.
 - Most LGUs thought implementing rules would be straightforward, however, some thought it would be onerous.

Goals for the August 28th meeting

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- Financial Assurance
 - Has the structure of MN Rule 6132 and combines language with WI NR 135.
 - Internally reviewed
 - Get input on the document
 - I am uncertain the time frame in which this will happen
- Reclamation Plan
 - Not internally vetted – *Rough Preliminary Draft*
 - It was handed out to the panel today
 - However, time permitted, I would like to go through it

Rule Structure and Game Plan

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1. Performance Standards
2. Reclamation Plan
3. Financial Assurance
4. Blasting Standards
5. *Administrative Procedures (checks and balances)*

Go through 1-4 and then brainstorm and determine best approach for the Admin. Proc.

Foundation of a rule

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- ❑ A rule must not exceed statutory authority
- ❑ A rule must not conflict with the governing statute or applicable law
- ❑ A rule must have a reasonable relationship to statutory authority
- ❑ A rule must not be unconstitutional, arbitrary, or unreasonable.

SONAR Language

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- Section 14.131 and 14.23: Sonar language must describe the classes of persons who will probably be affected by the proposed rules, including those who will bear the costs of the rules and those who will benefit from the rules.

SONAR Language

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- Section 14.127: Requires an agency to determine if the cost of complying with proposed rules in the first year after the rules take effect will exceed \$25,000 for any small business or small city.

Advisory panel can help make this estimate – which is helpful with the ALJ

SONAR Language

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- Section 14.131 and 14.23: Sonar language must estimate the probable costs of complying AND cost of not adopting the rules, including the portion of the total costs that will be borne by identifiable categories of affected parties – such as separate classes of governmental units, businesses, or individuals.

Advisory panel can help make this estimate – which is helpful with the ALJ

Points of discussion moving forward

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- Who will be affected by the rules.
- Who benefits from the rules.
- How much will this cost to small LGUs and small businesses (<50 people).